IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 12TH DECEMBER 2007 / 21ST AGRAHAYANA 1929

Crl.MC.No. 3720 of 2007()

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[CRIME NO.420/2004 OF PAZHAVANGADI POLICE STATION]

PETITIONER/2ND ACCUSED:

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ASHRAF @ KUTTAN ASHRAF,
S/O.MOHAMMED KUNJU,
PULUKKOOL PARAMBATH, ONAPARAMBU P.O.,
KOTTILA, EZHAM AMSOM,
KANNUR.

BY ADV. SRI.P.M.HABEEB

RESPONDENT:

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STATE OF KERALA,
REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM (CRIME NO.420/2004)
OF PAZHAYANGADI POLICE STATION, KANNUR.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J.**

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Crl.M.C.No.3720 of 2007

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Dated this the 12th day of December 2007

**O R D E R**

The petitioner faces indictment in a prosecution for offences punishable inter alia under Section 308 I.P.C. The petitioner was arrested and enlarged on bail at the crime stage, it is submitted. Final report has been filed. Cognizance has been taken. Committal proceedings has been taken. The petitioner had appeared before the committal court also, it is submitted. But later, the petitioner could not continue to appear as he secured employment and had to go abroad to take up such employment. Reckoning the petitioner as an absconding accused, coercive processes have been issued against the petitioner. The petitioner finds such processes chasing him.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner was employed abroad is now coming to India. He is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C.

may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

**(R.BASANT, JUDGE)**

jsr

**R.BASANT, J.**

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007